PRIVATE RESIDENCE RELIEF

This Help Sheet gives you information to help you complete the Capital Gains Pages of your Tax Return.

This Help Sheet explains the relief available on the disposal of your private residence. But it is only an introduction. If you are in any doubt about your tax circumstances, ask your tax adviser.

Your Inland Revenue office will also be pleased to help. You can ask to see the Inland Revenue Capital Gains Manual, which explains the rules in detail.

RELIEF FROM TAX

Private residence relief ensures that when you dispose of your home you will not, with some exceptions set out below, pay Capital Gains Tax on any gain you make.

You may get full or only partial relief from tax. The Notes to the Capital Gains Pages explain how you calculate any gain on the sale of your home.

This Help Sheet explains how much relief you can deduct from that gain to calculate the chargeable gain on which you must pay tax. If you meet the conditions set out in this Help Sheet, you will also not pay tax on any gain you make from the disposal of a home you have provided for a dependent relative.

Private residence relief is not intended to relieve speculative gains or gains arising from development. Relief is not, therefore, available where you:

- acquire a dwelling-house, **or**
- spend money on your dwelling-house

wholly or partly to realise a gain on its disposal.

For example, you may have bought the house to sell it quickly at a profit or, if you were a tenant, you may have bought out the freehold in order to increase your profit on sale.

If you make a loss on the disposal of your home and you would have got private residence relief if you had made a gain, your loss will not be an allowable loss. If you would have got partial relief, part of your loss will be allowable. The part should be calculated in the same way as you would have calculated the relief if you had made a gain.

ASSETS QUALIFYING FOR RELIEF

The relief is available where you make a gain from disposing of any part of:

- your *dwelling-house,* if it has at some time in your *period of ownership* been your only or main residence, **or**
- the *garden* or *grounds* of that residence up to the *permitted area.*

If your residence is outside the UK you may still qualify for relief.

If you have more than one home, you can only get relief for your main residence. You can choose which this is to be.

The terms in *italics* are explained below.

PERSONS QUALIFYING FOR RELIEF

Any individual is entitled to the relief and so are:

- trustees of settled property **and**
- personal representatives.

Companies are not entitled to relief.

AN INTEREST IN A RESIDENCE

You are entitled to relief if you own the freehold of your home, or if you are a tenant owning a lease. You are also entitled to relief if you jointly own the freehold or a lease with someone else.

TAX RETURN

If you have disposed of your only or main residence, you should tick the first capital gains box in Question 8 on page 2 of your Tax Return. You only need to complete the Capital Gains Pages if you have other gains, or you are not entitled to full private residence relief, or you want to claim a capital loss for 1999-2000.

IDENTIFYING YOUR DWELLING-HOUSE

Your dwelling-house may be a single building, for example, a detached house. It may be more than one building, for example, a house with a detached garage. Or it may be part of a building, for example, a flat.

If part of your dwelling-house is used exclusively for a trade or business, that part will not qualify for relief.

Example 1
Your house consists of a shop with living accommodation above. You are only entitled to relief for the living accommodation. If you sell the house, you should split any gain fairly between the gain on the shop, which may be chargeable, and the gain on the living accommodation, which will attract relief.

If you have a lodger, the rooms occupied by the lodger qualify for relief. If you have more than one lodger, or let part of the dwelling-house, those rooms will not qualify, but there is a further relief to which you may be entitled and which is explained below.

If you live in a fixed caravan or houseboat, you are entitled to relief in the same way as if you lived in a conventional house.

If your home includes more than one building, particularly if it has several outbuildings, your dwelling-house may not include all of the outbuildings.

Example 2
Your home consists of a house, a detached garage and granny flat near the house, half an acre of garden and a summer-house at the end of the garden. Your dwelling-house is the house together with the garage and granny flat, but excluding the summer-house.

Deciding which buildings make up your dwelling-house is only important if your home has a garden or grounds larger than half a hectare (a little less than one and a quarter acres). You may not be entitled to relief for all of this land. The amount of relief you get depends on the size, character and position of the buildings that make up your dwelling-house.

In large or extensive properties it may not be easy to decide which outbuildings are part of your dwelling-house. Your Inland Revenue office can help.

IDENTIFYING YOUR GARDEN OR GROUNDS

You are entitled to relief if you dispose of land that you occupy as your garden or grounds at the time of your disposal.

The garden or grounds includes the buildings standing on that land. So a building that is not part of your dwelling-house can still qualify for relief if it is within the permitted area of garden or grounds.

Not all land you hold with your dwelling-house is treated as the garden or grounds of that residence. You are not entitled to relief for land let or used for a business; for example, surrounding farm land.

The garden or grounds will include any enclosed land surrounding or attached to your dwelling-house and serving chiefly for ornament or recreation.

THE EXTENT AND LOCATION OF THE PERMITTED AREA

If your garden and grounds do not exceed half a hectare, you are entitled to relief for all of it. Look again at Example 2. The summer-house was not part of the dwelling-house. But the grounds do not exceed half a hectare and so the summer-house, which stands in the grounds, will still attract relief.

If your garden and grounds exceed half a hectare, you may not be entitled to relief for all of it. The area for which you are entitled to relief is called the permitted area. It consists of the area that is required for the reasonable enjoyment of your dwelling-house as a home. The size and character of your dwelling-house must be taken into account.

If your garden and grounds exceed half a hectare, and you have disposed of all or part of the garden and grounds, you should:

- enter details of the disposal and gain on Pages CG2 and CG3, **and**
- explain in the 'Additional information' box on Page CG7 of the Capital Gains Pages why you think, if appropriate, all or part is exempt from Capital Gains Tax.

Your Inland Revenue office may ask for further details in these cases.

PERIOD OF OWNERSHIP

You are entitled to relief to the extent that your dwelling-house was used as your only or main residence during your period of ownership.

Your period of ownership began on the date you first acquired the dwelling-house, or on 31 March 1982 if that is later. It ended when you disposed of it.

The final 36 months of your period of ownership always qualify for relief, regardless of how you use the property in that time, if the dwelling-house has ever been your only or main residence.

Example 3
You bought your house in January 1990 and sold it in December 1999. You lived in the property as your only or main residence apart from 18 months in 1991 and 1992, when you lived in a different house. So the house qualifies for relief for 102 out of the 120 months you owned it. A proportion of any gain you make from the disposal amounting to $^{102}/_{120}$ths will qualify for relief.

If you had moved out of the house at some time after December 1996, your relief would not be restricted.

If you had bought the house before 31.3.82, the calculation above would begin from 31.3.82 and not from when you bought the house.

PERIODS OF ABSENCE

Some periods when you were not using the house as your only or main residence will still qualify for relief. These should be ignored when you are calculating the fraction of any gain that qualifies for relief.

If you do not occupy your new home when you acquire it because you are not able to sell your old home, or you need to carry out refurbishments, you can treat the first 12 months as if the house had been your only or main residence in that period. In exceptional circumstances your Inland Revenue office may allow you to treat a longer period (up to a total of two years) in the same way. The same treatment applies when you buy land to build a house on it.

Example 4
You bought a house in January 1987 but it needed major refurbishment and you could not move in until January 1988. Subsequently it was your only or main residence until you sold it in 2000. You are entitled to full relief.

Certain other periods of absence from your dwelling-house may be treated as periods of residence if:

- during the period, you have no other dwelling-house eligible for relief, **and**
- both before and after the period there is a time when the dwelling-house is your only or main residence.

The qualifying periods of absence are:

a. absences for whatever reason, totalling not more than three years in all
b. absences during which you are in employment and all your duties are carried on outside the UK
c. absences totalling not more than 4 years when
   - the distance from your place of work prevents you living at home, **or**
   - your employer requires you to work away from home in order to do your job effectively.

You will keep the exemption for absences b. and c. if you cannot return to your dwelling-house afterwards because your existing job requires you to work away again.

Example 5
You bought a house in 1984 and used it as your only or main residence. In 1985 your employer required you to work abroad and you did not come back to the house until 1990. You lived in the house again as your only or main residence until you sold it in 2000. You are entitled to full relief.

JOB-RELATED ACCOMMODATION

Private residence relief is also extended where you live in accommodation that is job-related and you also own a dwelling-house that you intend to occupy as your only or main residence.

The dwelling-house you intend to occupy is treated as actually being occupied by you as a residence during the period in which you have the intention to occupy it. This means that you may nominate that residence as your only or main residence. Please see the paragraph headed 'Your main residence'. If your intention to live in the dwelling-house ends, then the dwelling-house is no longer treated as a residence.

Relief is still available even if you never actually live in that dwelling-house.

Accommodation is job-related if it is exempt from Income Tax for the reasons set out in *Help Sheet IR202: Living accommodation*.

This extension of Private Residence Relief also applies if you are self-employed. The job-related accommodation must be provided by another person under the terms of a contract that requires you to live in the property and carry on a particular trade.
This extension only applies to residence in such accommodation on or after 6 April 1983. If you need help, ask your Inland Revenue office.

FURTHER RELIEF FOR LETTING OF RESIDENTIAL ACCOMMODATION

If relief is restricted because of letting, and some or all of your dwelling-house has been let as residential accommodation, you may be entitled to a further relief. This further relief is due where:

- you sell a dwelling-house which is, or has been, your only or main residence, **and**
- part or all of it has at some time in your period of ownership been let as residential accommodation.

The amount of relief is the lowest of:

- the amount of private residence relief already calculated, **or**
- £40,000, **or**
- the amount of any chargeable gain you make because of the letting.

The maximum relief of £40,000 should be applied to each disposal where private residence relief is due.

Example 6
You ran a guest house from your home. 60% of the house was used for letting to guests while 40% was used as your home. You made a gain of £60,000 when you disposed of the property. You are entitled to private residence relief for 40% of the gain - £24,000. Your remaining gain is £36,000 and it all results from the letting. The lowest of the three limits set out above is the amount of private residence relief and so you are entitled to further letting relief of £24,000. Your chargeable gain will be £12,000.

YOUR MAIN RESIDENCE

If you have two or more residences, you can only have one main residence at a time.

You can nominate which residence is to be treated as your main residence for any period. Your nomination must be made within two years of the date you first have a particular combination of residences. If there is a change in your combination of residences, a new two-year period begins. If you do not make a nomination, the question of which is your main residence will be determined on the facts.

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Example 7
In May 1997 you bought a second home. You can nominate that or your original home to be your main residence. Your nomination must be made by May 1999.

If you are married, and you are not separated from your spouse, you can have only one main residence between you. If, when you married, you each owned a residence and you have continued to use both residences, you can nominate jointly which is to be the main residence, and the two-year period for doing so begins on the date of marriage.

If you are separated, each of you may have a different only or main residence and each may be entitled to relief on any gains arising on the disposal of the residence(s).

RESIDENCE PROVIDED FOR A DEPENDENT RELATIVE

In addition to the relief that may be due on disposal of your own residence, you may also be entitled to relief when you dispose of a residence which you have provided for a dependent relative. But you cannot get relief for:

- any residence acquired after 5 April 1988, **or**
- any residence acquired before that date unless the conditions for relief were met by that date.

The conditions for relief are:

- the dependent relative must occupy the dwelling-house rent free and without any other consideration
- only one dependent's dwelling-house can qualify at any one time
- a husband and wife who are living together can claim relief for only one such dwelling-house between them
- the dwelling-house must be the sole residence of the dependent relative.

WHO IS A DEPENDENT RELATIVE?

Dependent relatives are:

- any relative of you or your spouse who is incapacitated by old age or infirmity from maintaining himself or herself, **or**
- your own or your spouse's mother who, whether or not incapacitated, is either widowed, or living apart from her husband, or a single woman in consequence of dissolution or annulment of marriage.

If you are in any doubt, ask your Inland Revenue office or tax adviser.

PRIVATE RESIDENCE RELIEF ON THE DISPOSAL OF SETTLED PROPERTY

Trustees of settled property are entitled to relief if they dispose of the only or main residence of a person entitled to occupy that residence under the terms of the settlement. Ask your Inland Revenue office or tax adviser for more details.

PERSONAL REPRESENTATIVES

Personal representatives who dispose of the only or main residence of a legatee during the administration period are entitled to relief if the legatee would be entitled to at least 75% of the proceeds of the property. Ask your Inland Revenue office or tax adviser for more details.

These notes are for guidance only, and reflect the position at the time of writing. They do not affect any rights of appeal.